IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Civil Application No. 267 of 2004
in
Writ Petition No. 1974 of 1992

Navin P.Zaveri ..Petitioner

vs.

1. Alok Ramakant Temkar & anr. ..Respondents

and

1. Vinesh Navinchandra Zaveri
and others ..Applicants

Shri Santosh Shetty i/b Shri M.M.Vashi for applicants.
None for respondents.

CORAM: S.B.MHASE J.
8th August,2006

P.C.

1. Heard the learned Counsel for the petitioner. Respondents though served by public notice are absent.

2. This is an application to set aside the order dated 9th January, 2003 by which the writ petition was dismissed for default and rule was discharged. Now, this Civil Application is preferred by the heirs of the original petitioner who has expired on 13th September, 2003 to bring on record the heirs of the original petitioner namely the applicants and further to set aside the order dated 9th January, 2003 as a result of which the petition was dismissed. As stated earlier, inspite of service

on the respondents, the respondents are absent and, therefore, averments made in the application stand admitted as a result of rule of non traversed. Therefore, Civil application is allowed. The order dated 9th January, 2003 dismissing the writ petition is set aside and the petition is restored to its original position. The prayer to bring on record the names of the applicants as legal representatives of the original petitioner is also granted and for the said purpose the delay is condoned and abatement is set aside. Amendment to substitute the names of the heirs of the deceased petitioner shall be effected within four weeks. The civil application is accordingly made absoslute.

(S.B.MHASE J.)